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In the Supreme Court of the United States

OCTOBER TERM, 1959

**EDWARD J. MEYER, MARION E. MEYER and ALFRED
M. SAPERSTON, Executors of the Estate of Albert
F. Meyer, PETITIONERS**

v.

UNITED STATES OF AMERICA

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT**

MEMORANDUM FOR THE UNITED STATES

J. LEE RANKIN,
Solicitor General,
Department of Justice,
Washington 25, D. C.

In the Supreme Court of the United States

OCTOBER TERM, 1959

No. 539

**EDWARD J. MEYER, MARION E. MEYER and ALFRED
M. SAPERSTON, Executors of the Estate of Albert
F. Meyer, PETITIONERS**

v.

UNITED STATES OF AMERICA

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
" UNITED STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT**

MEMORANDUM FOR THE UNITED STATES

The question presented is whether a decedent's estate is entitled to a marital deduction under Section 812(e) of the Internal Revenue Code of 1939 with respect to a portion of the proceeds of two life insurance policies on the life of the decedent. The proceeds were payable in monthly payments to the surviving spouse for life, but if she should die within the first twenty years the monthly payments were to be made for the remainder of the twenty-year

period to the decedent's daughter then surviving. The court below held that the estate was not entitled to the marital deduction, expressly recognizing that its conclusion was contrary to that reached by the Third Circuit in *In re Reilly's Estate*, 239 F. 2d 797 (Pet. 16-22). The legal principles involved in both cases are identical and there is an essential conflict in the rulings of the two courts. Because there are undoubtedly many similar insurance policies outstanding, the question presented is likely to be a recurring one.* Accordingly, the Government does not oppose certiorari.

Respectfully submitted,

J. LEE RANKIN,
Solicitor General.

DECEMBER 1959.

* The Government is currently prosecuting an appeal to the Eighth Circuit from an adverse decision on the same question in *Sandper's Estate v. United States*, decided June 19, 1959 (E.D. Mo.).